

Stillwater County Development Regulations

I. General Provisions and Purpose

A. Authority

The Stillwater County Development Regulations (Regulations) are adopted under authority of Sec. 76-2-201, MCA, et. seq.

B. Purpose

The purpose of these Regulations is:

1. To provide for the planning of proposed land use changes in Stillwater County.
2. To ensure and protect the public health, safety, and general welfare.
3. To encourage economic development.
4. To preserve agricultural resources.
5. To provide simple, easily understood guidance for future development.
6. To minimize, where possible, impacts of new developments upon government services and infrastructure such as roads, wildfire protection, health and safety, and emergency services.
7. To ensure the public's right to know and participate in land use decision-making processes.

C. Jurisdiction

The area included within the jurisdiction of these Regulations and governed by them shall be the unincorporated areas of Stillwater County, Montana, excepting the City of Columbus extra-territorial zoning jurisdiction, as well as State and Federal lands.

D. Most Restrictive Standards Apply

When future County Regulations, or state or federal law, impose additional standards on land use or development governed by these Regulations, the most restrictive standard shall apply. These Regulations do not nullify easements, covenants, deed restrictions, or other similar private agreements, but where any such private agreement imposes standards that are less restrictive than those adopted herein, these Regulations shall apply.

E. Burden of Proof

In all proceedings and hearings, and in all application and submittal materials, the burden of proof shall rest with the applicant, permittee or appellant, as applicable.

F. Severability

If a court of competent jurisdiction holds any word, phrase, clause, sentence, paragraph, section, or other part of these Regulations invalid, that judgment will only affect the part held invalid.

G. Liability

No individual, including members of the Planning Board, Board of County Commissioners, Planning Staff, or any other County employee, who acts in good faith and without malice in the performance of duties assigned by these Regulations, shall be held liable for errors or omissions in their administration.

H. Relationship to Private Covenants, Conditions, and Restrictions

These Regulations do not supersede, overwrite, or replace private covenants, conditions, restrictions, home or property owners' associations, or any other private land use agreements. Likewise, the presence of private land use agreements does not invalidate or replace these Regulations.

II. Definitions

ACCESSORY USE: The use of land, or a subordinate building, or a portion of a main building, such use being secondary to, or incidental to, the principal use or structure. This definition includes but is not limited to a shed, garage, or non-commercial shop.

AGRICULTURE: Any use of land for the production of crops or livestock, including ranching, farming, dairying, grazing, pasturage, husbandry of poultry, forestry, horticulture, and floriculture. This definition includes buildings, structures, machinery, equipment, and practices associated with such production; including accessory facilities and activities necessary to load, transport, store, or dispose of agricultural products produced solely by the owner or operator on the premises. This definition does not include commercial agriculture or commercial feed operations.

BOARD OF ADJUSTMENT: A Board of Adjustment is required in Montana Code Annotated 76-2-221. The Board of Adjustment shall consist of the members of the Board of County Commissioners, and shall decide all matters of administrative appeals and variance requests.

CODE ENFORCEMENT OFFICER: The person or persons designated by the Stillwater County Commission to enforce the provisions of these Regulations, investigate complaints, and administer a process to ensure compliance with these Regulations

COMMERCIAL: Use of the land for engaging in the selling, purchasing or handling of, or disposition of any article, commodity, substance or service. This definition includes the occupancy or management of office buildings, the use of structures or premises by professions and trades or people rendering services. Examples may include but are not limited to: commercial agriculture, and commercial feed operations.

COMMERCIAL AGRICULTURE: Any premises, facility, or use of the land for the processing, storage disposal, loading or transportation of agricultural products produced off the premises or by other than the owner of the facility or commercial products for use by agricultural operators. Commercial agriculture may include but is not limited to facilities such as grain elevators, railroad loading facilities, crop and meat processing plants, rendering plants, slaughterhouses, fertilizer plants, and commercial feed operations as defined in these Regulations.

COMMERCIAL FEED OPERATIONS: Any premises on which animals are held and maintained for more than 45 consecutive days for the purpose of feeding for market. An operation shall be considered a commercial feed operation where 1,000 head or more sheep, cattle, hogs, poultry, rabbits or any other

animal exist. Livestock which have access to natural forage on a regular seasonal basis shall not be considered as a Commercial Feed Operation. Commercial Feed Operation does not include the normal seasonal feeding or wintering of livestock produced by the owner as part of an agricultural operation.

HOME OCCUPATIONS: The use of a portion of a dwelling or accessory structure as an office, studio or work room, for occupations at home that are conducted entirely within the structure by one or more persons residing in the dwelling unit. The activity must be clearly incidental to the use of the dwelling for dwelling purposes and should not substantially change the character or appearance thereof, and not be evidenced beyond the limits of the property by advertising, noise, light, smoke, odor, vibration, electrical interference, storage of material or equipment, or by excessive vehicular traffic, or other exterior evidence.

INDUSTRIAL: Any use of land for the manufacture, fabrication, processing, reduction or destruction of any article, substance, commodity or any other treatment in such a manner as to change the form, character or appearance thereof, including warehouses, wholesale storage, storage elevators, commercial wind energy conversion systems, wireless communication facilities, and truck storage yards.

MOBILE HOME: Form of housing exceeding 8 feet in width or 45 feet in length, designed to be moved from one place to another by an independent power connected to them and used as a principal residence.

MULTI-FAMILY: The use of land for development intended to provide housing for multiple families, or separate residences for unrelated people. This definition includes, but is not necessarily limited to, apartments, condominiums, planned unit developments, and mobile home parks.

OFF-PREMISE SIGN: Any sign structure advertising an establishment, merchandise, Service, or entertainment which is not sold, produced, manufactured, or furnished at the property on which the sign is located.

PLANNED UNIT DEVELOPMENT (PUD): A land development project consisting of residential clusters, industrial parks, shopping centers, office building parks or any combination thereof that comprises a planned mixture of land uses built in a prearranged relationship to each other, and having open space and community facilities in a common ownership or use. A PUD may be subject to subdivision review, except that no parkland dedication is required (76-3-621(6)(a)(i), MCA).

PLANNING STAFF: The person or persons designated by the Stillwater County Commission to process, review, and approve permits under these Regulations.

PROJECT AREA: The tract or tracts on which a development is taking place. If multiple tracts are involved in a single development, the property lines, affected tract(s), etc., relating to the development shall be interpreted to refer to the external boundaries of the project.

RESIDENTIAL: The use of land for the location of a structure to be used as the primary dwelling place for one or more people. This does not include multi-family developments.

VARIANCE: The approved relaxation of the strict application of the terms of these regulations, where, owing to special conditions, a literal enforcement of the provisions of these regulations will result in an unnecessary hardship, where it will not be contrary to these regulations, and where the spirit of the ordinance will be observed and substantial justice done. "Hardship" does not refer to financial or

economic difficulty but is instead a situation in which the property cannot be developed at all because of the regulation.

WIND ENERGY CONVERSION SYSTEM (COMMERCIAL): Any device or assemblage which directly converts wind energy into usable thermal mechanical, or electrical energy for the primary purpose of resale or off-site use. WECS includes such devices as windmills and wind turbines, towers and supporting structures and such directly connected facilities as generators, alternators, inverters, batteries and associated control equipment.

WIND ENERGY CONVERSION SYSTEM (NON-COMMERCIAL): A wind driven machine that converts wind energy into electrical power for the primary purpose of on-site use and not for resale.

WIRELESS COMMUNICATION FACILITY: An unstaffed facility for the transmission and/or reception of radio frequency, microwave or other signals for commercial communication purposes, typically consisting of an equipment enclosure, an antenna support structure and one or more antennae. Amateur radio, land mobile radio, and commercial radio and television facilities are excluded from this definition.

ZONING COMMISSION: The County Planning Board is the zoning commission of Stillwater County, as required in Montana Code Annotated 76-2-220. The zoning commission shall consist of the members of the County Planning Board, appointed by the County Commissioners and operating under the bylaws of the County Planning Board.

III. Allowed, Permitted and Conditional Uses

A. Allowed Uses

1. **Agricultural Uses** – Agricultural uses are allowed without the requirement of obtaining a development permit.
2. **Accessory Uses** – Accessory uses are allowed without a development permit as long as setback requirements are met.
3. **Home Occupations** – Home occupational uses are allowed without a development permit as long the footprint of the existing development is not changed.

B. Permitted Uses

1. **Single-Family Residential Uses** – Single-family residential uses are subject to completion of the Stillwater County Coordinated Permit Process.

C. Conditional Uses

1. **Multi-Family Uses**
2. **Commercial Uses**
3. **Industrial Uses**

D. Nonconforming Uses

1. Any lawful use of the land, structures, or signage existing at the date of passage of this ordinance and located on a property in which a permit would be required as a new use under these Regulations, is declared to be an existing nonconforming use, and not in violation of the ordinance. Nothing in these Regulations are intended to stop an existing nonconforming use from continuing in its current state.

2. The nonconforming use of land shall not be extended to any additional land or change in use of land after the date of adoption of this ordinance without the issuance of a permit under these Regulations.

3. Any nonconforming use abandoned for a period of one (1) year, will be considered a new use and will require an issuance of a permit under these Regulations..

IV. Single-Family Residential Development

A. Single-family residential development is subject to the Stillwater County Coordinated Permit Process.

B. Coordinated Development Permit

1. The Coordinated Development Permit provides information on which permits may be required for a development in the County, and contact information for the issuing agency (e.g. Environmental Health, Rural Addressing, Road and Bridge).

C. Application and Administrative Procedures

1. Applicants must contact the Planning Office for a Coordinated Development Permit
2. The Planning Office will coordinate review and comments from other necessary County departments
3. Each identified agency shall sign off on the Coordinated Development Permit
4. Once a Coordinated Development Permit is complete, it must be returned to the Planning Office for final review
5. No additional fee may be charged for the review and processing of a coordinated development permit. However, fees may be charged by departments for other necessary permits

V. Conditional Use Permit

A. Permit Required

A conditional use permit must be issued under these Regulations for all new multi-family, planned unit developments, commercial or industrial development, as defined herein. Construction shall not begin prior to issuance of the permit.

B. Application and Administrative Procedures

1. Conditional Use Permit Application Submittal

A development permit application may be applied for by a property owner, contract purchaser, or their authorized agent. The application shall be filed with the County Planning Department. The application must have an approved address from Stillwater County Department of Emergency Services in order to be deemed complete.

2. Application Contents

The County Planning Office shall make a standard application document available. This application shall include the following:

- a) Legal and general description of the tract(s) affected
- b) Map and general site plan showing approximate dimensions, acreage, and location of the tract(s), existing and proposed buildings and other land features, access, agricultural water user facilities, sewer and water provisions, drainage, and other features that may be important for review
- c) Traffic impact analysis prepared by a licensed engineer to include, at a minimum, existing traffic circulation, conditions, and patterns; anticipated traffic circulation conditions and patterns generated by the proposed development; the impact on the existing road network; and recommendations to alleviate adverse impacts.
- d) Time schedule for development
- e) Names and addresses of all owners of property within 100 feet of the affected property
- f) Additional information relevant to the application to support the request

3. Staff Review

Upon receiving a complete application Planning Staff shall evaluate the proposed development according the following process:

- a) Consult with other County departments, as applicable, to fully evaluate the impact of the development upon public facilities, such as access, drainage, traffic, and other facilities
- b) Evaluate each application for its completeness. Incomplete applications will not be reviewed.
- c) Evaluate each application with reference to its compliance with the approval criteria and relation to the Growth Policy
- d) Notify, by certified mail, all owners of property within 100 feet of the affected property of the time, date, and place of the public hearing
- e) Publish a public hearing notice for the Zoning Commission meeting in accordance with Montana Code Annotated 7-1-2121

Planning Staff may recommend additional conditions of approval to ensure public health and safety measures and compliance with the approval criteria. Additional conditions must have a clear nexus to a public health or safety issue and show mitigation.

4. Zoning Commission Review

The Zoning Commission shall hold a public hearing and consider the application, staff report prepared by Planning Staff, all public testimony, and the approval criteria. The Zoning Commission shall make a recommendation to the governing body to approve, approve with conditions, or deny the conditional use permit. Any conditions must be reasonable and to ensure compliance with the approval criteria.

5. Approval criteria:

- a) Water and sewer provisions: water and sewer must be provided, or have the ability to be provided with confirmation from either Montana Department of Environmental Quality or Stillwater County Environmental Health
- b) Floodplain: development shall conform to the Stillwater County Floodplain Regulations and be in good standing with no active floodplain violations
- c) Rural addressing: development shall obtain an approved address from Stillwater County DES
- c) Site design: development shall be appropriately graded or designed so as not to adversely impact adjacent streams, lakes, rivers, reservoirs, roadways, and adjacent properties. Appropriately sized culverts, ditches, retention/detention ponds, or other features shall be utilized to minimize additional runoff
- d) Setbacks: all development shall be set back a minimum of one half the height of the proposed structure, and at least 10 (ten) feet from the front property line or right-of-way and 5 (five) feet from all side and rear property lines. No building or structure shall be built within rights-of-way or easements.
- e) Access: legal and physical access shall be provided to the tract of land where the development is proposed.
- f) Interference with agriculture: development shall not interfere with agricultural operations through the contamination of livestock or irrigation water supplies or obstruct, impair or impede irrigation canals, head gates, ditches, culverts or other irrigation facilities
- g) Parking: off-street parking and loading areas shall be provided for commercial and industrial uses. The following minimum criteria shall be met:
 - i. Multi-Family Development: Two spaces per dwelling unit
 - ii. Commercial Development: One space per full-time employee is required, plus one space per 400 square feet of floor space
 - iii. Industrial Development: One space per full-time employee, plus one space per 1000 square feet of floor space
- h) Lighting: all lighting shall be designed to minimize, to the extent possible, light pollution onto surrounding properties and maintain the character of surrounding land uses. Lighting should be downward facing where possible and should be primarily for security of site, building entrances, and access to outside storage areas.

i) Screening: in order to minimize adverse visual impact, development should be screened from adjacent properties, as practical, by utilizing sight-obscuring fencing, landscape buffering, or a combination of the two. A combination of trees, shrubs, and fencing designed to complement said development and provide buffering between adjacent land is required around the site perimeter. This requirement may be waived if development is adjacent to similar uses.

j) Relationship to existing uses: development should not interfere with the enjoyment of surrounding land uses

k) Additional requirements: development shall, in addition to the identified approval criteria, meet additional conditions as supported by findings in order to mitigate impacts

6. Zoning Commission Recommendation to Governing Body

a) The Zoning Commission shall recommend the Stillwater County Commissioners approve, approve with conditions or deny the conditional use permit application.

b) The Zoning Commission shall give findings for its recommendation.

c) The Zoning Commission may recommend additional conditions of approval to ensure public health and safety measures and compliance with the approval criteria. Additional conditions must have a clear nexus to a public health or safety issue and show mitigation.

7. Governing Body Approval/Issuance of Permit

a) The Stillwater County Commissioners shall consider the Zoning Commission recommendation, written or spoken testimony provided at the public hearing, the application, and the staff report provided by Planning staff.

b) The Stillwater County Commissioners shall approve, approve with conditions or deny the application for Conditional Use Permit within 60 days of the receipt of a complete application by Planning staff.

VI. Scenic Corridor Signage

There is a corridor extending 300 feet from the edge of the right of way of Highway 78 in Stillwater County.

A. Criteria

Within this corridor the following criteria apply to all off-premise signs:

1. The maximum height shall not exceed 10 feet above the mean centerline elevation of the roadway adjacent to the sign. Where overpasses or topography raise the elevation of the adjacent roadway centerline in excess of ten feet from the standard roadway elevation, the maximum allowable height shall not exceed 20 feet.

2. No off-premise sign shall exceed the maximum of 80 square feet in area. The sign shall be determined by the smallest rectangle that can encompass the lettering or sign face. The sign may be two-faced with 80 square feet per side.

3. Lighting shall only be allowed so as to illuminate the message on the face of the sign. No lighting will face upwards nor be reflected onto the roadway or adjoining properties. No off-premise sign shall have flashing or blinking lights, moving parts, or simulate motion with reflective parts. The maximum allowable reflected light shall be one footcandle or ten lumens per signs face.

4. No off-premise signs shall contain flashing or colored lights or electronically-changeable facing on the sign.

5. No off-premise sign shall be located within 500 feet of an existing dwelling, with the exception of real-estate signs, unless the dwelling is owned by the property owner where the sign is located.

B. Application and Administrative Procedures

The County Planning Office shall make a standard application document available. This application shall, at a minimum, require the following:

1. A description of how the above criteria have been met
2. Scaled drawing of the proposed sign, with dimensions
3. Color, aerial photograph showing the location of the proposed sign in relation to the adjacent road
4. Copies of other applicable permit applications, such as a Montana Department of Transportation (MDT) Outdoor Advertising Permit

C. Review and Approval

Planning Staff will review the application and issue an approval within 30 days of receiving a complete application that meets the requirements of these Regulations.

D. Exclusions

The following are excluded from the scenic corridor requirements of these Regulations:

1. Any sign advertising a business and located on the site at which the business is conducted.
2. Signs located outside the corridor defined herein.

VII. Variances

A. There is a special process that allows an applicant to request a deviation from the literal requirements of these Regulations. The Board of Adjustment is authorized to grant variances that are not contrary to the public interest, where, owing to special conditions, literal enforcement based on these Regulations results in an unnecessary hardship, excluding financial hardships.

B. Variance Application Submittal Requirements

1. A variance may be applied for by the property owner, contract purchaser, or their authorized agent. The application shall be filed with the County Planning Department. The variance application shall accompany the associated Permit application whenever possible.

2. The application shall include, but not be limited to, a written description of the variance request and justification for the request, based on the following information:

- a) Special conditions: there are special circumstances or conditions that are peculiar to the land or building for which the variance is sought that do not apply generally to land or buildings in County
- b) Not a result of the applicant: the special circumstances or conditions have not resulted from an act of the applicant or been established to circumvent these Regulations
- c) Strict application unreasonable: due to the special circumstances or conditions, the strict application of these Regulations would deprive the applicant of reasonable use of the land or building or create an undue hardship on the landowner
- d) Necessary to provide reasonable use: granting the variance is necessary to provide a reasonable use of the land or the building
- e) Minimum variance: the variance is the minimum variance necessary to allow a reasonable use of the land or building
- f) Not injurious: granting the variance will not be injurious to the neighborhood or detrimental to the public welfare
- g) Consistent with Regulations: granting the variance is consistent with the purposes and intent of these Regulations

3. Staff Review

Upon receiving a complete application Planning Staff shall evaluate the proposed development according the following process:

- a) Consult with other County departments, as applicable, to fully evaluate the impact of the variance upon public facilities, such as access, drainage, traffic, and other facilities
- b) Evaluate the variance request for its thoroughness and justification for the requested variance
- c) Evaluate each variance request with reference to its appropriateness and effect on existing and proposed land uses
- d) Notify, by mail, all owners of property within 100 feet of the affected property of the time, date, and place of the public hearing
- e) Publish a public hearing notice for the Zoning Commission meeting in accordance with Montana Code Annotated 7-1-2121

4. Zoning Commission Review

The Zoning Commission shall hold a public hearing and consider the variance request, staff report prepared by Planning Staff, all public testimony, and the variance criteria. The Zoning Commission shall to the governing body to approve, approve with conditions, or deny the variance request. Variance requests will be evaluated pursuant to the following criteria:

- a) Special conditions: there are special circumstances or conditions that are peculiar to the land or building for which the variance is sought that do not apply generally to land or buildings in County
- b) Not a result of the applicant: the special circumstances or conditions have not resulted from an act of the applicant or been created to circumvent these Regulations
- c) Strict application unreasonable: due to the special circumstances or conditions, the strict application of these Regulations would deprive the applicant of reasonable use of the land or building or create an undue hardship on the landowner
- d) Necessary to provide reasonable use: granting the variance is necessary to provide a reasonable use of the land or the building
- e) Minimum variance: the variance is the minimum variance necessary to allow a reasonable use of the land or building
- f) Not injurious: granting the variance will not be injurious to the neighborhood or detrimental to the public welfare
- g) Consistent with Regulations: granting the variance is consistent with the purposes and intent of these Regulations

5. Zoning Commission Recommendation to Board of Adjustment

- a) The Zoning Commission shall recommend the Board of Adjustment to approve, approve with conditions or deny the conditional use permit application.
- b) The Zoning Commission shall give findings for its recommendation.
- c) The Zoning Commission may recommend additional conditions of approval to ensure public health and safety measures and compliance with the approval criteria. Additional conditions must have a clear nexus to a public health or safety issue and show mitigation.

6. Board of Adjustment Approval/Issuance of Permit

- a) The Board of Adjustment shall consider the Zoning Commission recommendation, written or spoken testimony provided at the public hearing, the application, and the staff report provided by Planning staff.
- b) The Board of Adjustment shall approve, approve with conditions or deny the variance request within 60 days of the receipt of a complete application by Planning staff.

7. Granting of a Variance Request

An approved variance request, and any conditions thereof, shall be noted in any approval or conditional approval documents for the conditional use permit.

VIII. Enforcement, Violations, and Complaint Procedure

A. Code Enforcement Officer duties, powers, and responsibilities:

1. The Code Enforcement Officer shall receive a copy of any approval or conditional approval documents and shall ensure that development occurs in a manner that is consistent with the approval. Failure to comply with the conditions associated with an approval of a development can result in suspension, revocation and other enforcement actions as provided by these Regulations.

2. The Code Enforcement Officer may identify developments that are in violation of these Regulations and seek remedies to bring development into compliance.

3. The Code Enforcement Officer shall institute a process to administer, investigate, and resolve complaints, and any complaints about enforcement or non-compliance shall be directed to the Code Enforcement Officer.

B. Violations and Penalties

Failure to comply with any requirements of these regulations shall constitute a misdemeanor. Penalties for a misdemeanor are contained in 76-2-211, MCA. The owner or tenant of any building, structure, premises or part thereof, and any architect, builder, contractor, agent or other person who commits, participates in, assists or maintains such failure to comply may be found guilty of a separate offense and suffer the penalties specified above. Nothing set forth in this section shall prevent the county from taking other lawful action as is necessary to prevent or remedy any violation.

IX. Appeal Procedure

A. Administrative Appeals

Any party aggrieved by an administrative decision of Planning Staff may appeal that decision to the Board of Adjustment. All appeals shall be in writing and must be made within 15 days of the decision. The appeal will be heard at the next available meeting of the Board of Adjustment. The Board of adjustment may consider:

1. Whether the decision is consistent with the meaning and intent of these Regulations and the Stillwater County Growth Policy

2. Whether strict compliance with these Regulations or conditions of approval would create an unnecessary hardship or unreasonable situation on the particular property

3. Evidence of any adverse effects on other property or the general health, safety and welfare of the County

B. Board of Adjustment Appeals

Any party aggrieved by a decision of the Board of Adjustment may appeal that decision to the District Court. All appeals shall be in writing and must be made within 30 days of the decision.

C. County Commission Appeals

Any party aggrieved by a decision of the Board of County Commissioners may appeal that decision to District Court. All appeals shall be in writing and must be made within 30 days of the decision.

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